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SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

Fifty-first session

SUMMARY RECORD OF THE 19th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 17 August 1999, at 3 p.m.

Chairman: Mr. HATANO

later: Mr. RAMISHVILI

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The meeting was called to order at 3 p.m.

HUMAN RIGHTS OF INDIGENOUS PEOPLES:

(a) INDIGENOUS PEOPLES AND THEIR RELATIONSHIP TO LAND (agenda item 7) (continued) (E/CN.4/Sub.2/1999/18, 20 and 24; E/CN.4/Sub.2/1999/NGO/1 and 16; E/CN.4/Sub.2/AC.4/1999/7)

1. Ms. ANTILEO (American Association of Jurists) said that Chile's Mapuche people had been dispossessed of much of their land. Since coming into being in 1810, the State of Chile had pursued a policy of uprooting and forcibly assimilating the Mapuche people. For 200 years the Mapuche had waged a struggle within the framework of the law and institutions, but had failed to secure recognition or justice. In certain areas of Chile, the Government and the competent authorities had threatened the indigenous communities and accused them of endangering the rule of law.

2. With just a few months to go before the end of the International Decade of the World's Indigenous People, it had to be admitted that, despite some progress, the underlying problems of indigenous peoples remained. Any legislative process that ignored indigenous peoples as fully fledged interlocutors would result in unjust laws. The American Association of Jurists requested the Sub-Commission to recommend that, when drafting land legislation that applied to indigenous peoples, Governments should take account of the holistic attitude which such peoples had to the land, an attitude which involved sound and moderate use of natural resources coupled with protection of ancestral places.

3. Mr. MROMIO (North-South XXI) said that he wished to highlight a key point in the issue under discussion, namely the right of indigenous people to self-determination. In her report on indigenous peoples and their relationship to land (E/CN.4/Sub.2/1999/18), the Special Rapporteur had rightly emphasized the transcendental nature of the relationship between such peoples and the land. However, that profound and often sacred sense of rootedness was under constant threat. Indeed it was often violated by private companies and public corporations which were solely concerned to exploit resources in an unrestrained manner, thereby contributing to environmental degradation. In 1995, for example, the Peruvian Government had launched a water supply project which had resulted in a drought in the Ayro region in the Andes, thereby threatening the fragile regional ecosystem, causing the disappearance of local fauna and hence depriving the indigenous population of its principal food source.

4. North-South XXI believed that the right to self-determination, which did not necessarily mean independence, implied that peoples had the option to choose their political and social status both domestically and internationally. The Sub-Commission was the most suitable body to articulate that rignt and press for its implementation.

5. Ms. AMALIA (Netherlands Organization for International Development Cooperation) said that a sacral relationship existed between indigenous peoples and land. However, the Indonesian Government, which had no interest in that relationship, had authorized companies with interests in forestry and

large-scale monoculture to move into indigenous community lands. In collaboration with those investors, the Government had displaced the indigenous communities and destroyed the religious relationship between them and the land. Deprived of their resources, indigenous people had been marginalized in the economic, social, cultural and political fields.

6. Citing security reasons, the Government and the military had frequently violated the human rights of the indigenous communities, which had been sacrificed in the name of development. Conglomerates had not scrupled to pay the military to safeguard their forestry interests, especially to the detriment of indigenous populations.

7. The Sub-Commission should put pressure on the Indonesian Government to ratify International Labour Organization (ILO) Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries as soon as possible.

8. Mr. ALFONSO MARTINEZ, speaking on a point of order, said he was surprised to note that a document of the Committee on the Elimination of Racial Discrimination had been circulated which had nothing to do with the agenda of the Sub-Commission. He wished to know whether the document in question, which requested the Secretary-General to look into a number of human rights violations in certain countries, had been circulated by the secretariat. If it had, he wished to know why.

9. Mr. LEBAKINE (Secretary of the Sub-Commission) said that the document in question was indeed a document of the Committee on the Elimination of Racial Discrimination which had just been received and had been circulated for the information of members of the Sub-Commission.

10. Mr. ALFONSO MARTINEZ said that he wished to be informed who selected Committee documents for circulation to the Sub-Commission, and what selection criteria were used. It was a serious issue and an inappropriate way to proceed.

11. Ms. WARZAZI, endorsing the comments by Mr. Alfonso Martinez, said that she did not doubt the good faith of the secretariat However, she herself had frequently remarked that certain initiatives by the Committee on the Elimination of Racial Discrimination had exceeded its mandate. The document in question should not have been circulated to the Sub-Commission, especially since the very first page indicated that it reflected the personal views of the author and not those of the Committee as a whole.

12. The CHAIRMAN said that the document had been circulated in his absence and that he would exercise greater vigilance in future.

13. Mr. HERNANDEZ AGUILAR (Agir ensemble pour les droits de l'homme) said that the insecurity of the indigenous peoples of Mexico, particularly in the Chiapas region, was a matter of considerable concern given the presence of a large military contingent in the conflict zone. That was especially true of the Selva Lacandona, where soldiers outnumbered local people. During frequent checks, soldiers had threatened to imprison villagers who

demanded respect for their rights, or arrested persons in possession of documents considered to be subversive, for example newspapers, bibles and even copies of the Mexican Constitution.

14. Indigenous human rights defenders were often imprisoned without charge for over a year. Recently, the Mexican Government had again used soldiers to patrol indigenous villages in the Chiapas region. But far from establishing security, the presence of soldiers was regarded by local people as a threat.

15. The Sub-Commission should endeavour to improve the lot of indigenous peoples. The Mexican Government had signed a number of instruments providing for the observance of indigenous peoples' rights, but they were still a long way from being implemented.

16. Mr. CONDORI (Indian Council of South America) thanked Ms. Daes and Mr. Alfonso Martinez for their valuable efforts to help indigenous peoples. Since the workload of the Working Group on Indigenous Populations was extremely heavy, he suggested that it should meet for 10 days with effect from the next session, thereby enabling it to carry out activities within the framework of the International Decade of the World's Indigenous People. Moreover, delegates' travelling expenses were very high and should be reconsidered on a sensible basis.

17. The theme of indigenous peoples and their relationship to land should be considered in a cross-cutting manner and appear on the Working Group's agenda each year. The Indian Council of South America further proposed that the central theme for the new millennium should be the rights of indigenous children and youth.

18. Mr. FAN Guoxiang said that he was not an expert in indigenous issues. From listening to the debate, he had gathered that there was still no specific definition of an indigenous population or a minority. Following an exchange of views on the matter with experts, he had concluded that indigenous populations were those present in a given area before the arrival of colonists. Yet he wondered whether the same situation really pertained in Asia and Africa. The right to self-determination was another issue that needed to be discussed. Those issues should be faced frankly, even if they gave rise to differences of opinion.

19. Ms. MORROW PATTY (Interfaith International) said that, in her report on indigenous people and their relationship to land (E/CN.4/Sub.2/1999/18), Ms. Daes had rightly stated that indigenous peoples had a spiritual connection with the land. Since the dawn of time, indigenous peoples had considered space to be holy.

20. Her own tribe, the Muscogee, believed that it would be worthwhile to make a study of the many Indian mounds in her native region. Public opinion should be made aware of the need to respect and preserve the mounds. A fruitful dialogue between indigenous people and the rest of the population would ensue.

21. Interfaith International endorsed the recommendations made by Mr. Alfonso Martinez in his final report (E/CN.4/Sub.2/1999/20) and hoped that they would be considered with an open mind and good intentions by all the parties concerned.

22. Of all the agencies of the United Nations, ILO had possibly contributed most to the success of the International Decade of the World's Indigenous People by ensuring compliance with Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries. That Convention had established better understanding and more effective cooperation between Governments and indigenous peoples through technical cooperation projects, the organization of workshops and conferences, and the publication of relevant materials.

23. To ensure funding for activities within the framework of the International Decade, Interfaith International urged States to contribute generously to the Office of the High Commissioner for Human Rights, thereby enabling it to carry out its mandate. Such activities could only benefit indigenous peoples.

24. Mr. BARNES (Indigenous World Association) said that the most recent session of the Working Group on Indigenous Populations had been a success. Owing to the large number of issues on the Working Group's agenda, its future sessions should, if possible, last for 10 days or 8 days at the very least. Moreover, the land question needed to feature permanently on the agenda. Plans for future discussions on indigenous children and youth, who represented the future of indigenous peoples, were a welcome development.

25. It was regrettable that some Governments were being obstructionist in the working group for the preparation of the draft declaration on the rights of indigenous peoples. Indigenous World Association supported the declaration in its present form. If the contents of the draft declaration were watered down, its very purpose would be undermined, namely protection against arbitrary government policies and extinction.

26. The Special Rapporteur, Mr. Alfonso Martinez, should be commended for his important study on treaties, agreements and constructive arrangements between States and indigenous peoples, which had made a significant contribution to the recognition and protection of such peoples. Indigenous World Association therefore urged Governments to adopt the Special Rapporteur's recommendations.

27. The Sub-Commission should also pursue its study of indigenous peoples and their relationship to land. Peoples continued to be deprived of their land and their way of life was thereby jeopardized. Their right to self-determination should also be acknowledged. He was grateful to Ms. Daes for pointing out that the indigenous tribes of Alaska had never consented to the Alaska Native Claims Settlement Act. Nor had they ever been parties to the 1867 Treaty of Cession.

28. The Sub-Commission was to be commended for its ongoing support of indigenous peoples; it should continue to urge Governments to acknowledge and protect the fundamental rights of indigenous peoples.

29. Ms. BOWDEN (Liberation) said that, under the dictatorship of General Pinochet and successive civilian administrations, nearly 200,000 acres of Mapuche land had been transferred to multinational corporations and powerful landowners. The culture and traditional way of life of the Mapuche people had thus been jeopardized and they had slid into poverty. The Chilean Government had refused to enter into negotiations with the genuine representatives of the Mapuche Indians, whose leaders had been subjected to harassment and arrest. The Government was only prepared to negotiate with leaders appointed by itself.

30. In Brazil, under pressure from ranchers, gold miners and logging interests, the Government had reneged on its commitment to set aside land for the Makuxi and other indigenous peoples in the Raposa-Serra do Sol region (Roraima State). A savage campaign of intimidation had been unleashed against the Indians and at least 12 people had already been killed. The region which was home to the Yanomami people was also under threat and a bill was currently before Congress to promote mining in indigenous areas.

31. In India, the food and health problems afflicting the Tripuris had reached disaster proportions and the Indian Government was doing nothing to remedy them.

32. In Pakistan's Sind province, the human rights of the Sindhi people had been systematically violated. Rape, torture and deaths in custody were regular occurrences. A state of emergency had been declared, special courts had been established, and press censorship had been enforced. The Sub-Commission should look into the cases of all those indigenous peoples.

33. Mr. MALEZER (Aboriginal and Torres Strait Islander Commission) said that the Australian High Court had not abandoned the indefensible legal doctrine of terra nullius until 1992, in its Mabo v. Queensland decision. No treaty had ever been signed between the colonial power and the indigenous peoples in Australia. In the aftermath of the Mabo decision, indigenous demands for a negotiated settlement needed to be addressed.

34. Governments should accept the current version of the draft declaration on the rights of indigenous peoples and endeavour to end racial discrimination against indigenous peoples throughout the world.

35. In Australia, any document or treaty concerning reconciliation between indigenous and non-indigenous peoples would only be acceptable to the former if it was based on justice, equity and recognition of the specific nature of indigenous rights, their own systems of law and governance, and the principle of self-determination.

36. The Committee on the Elimination of Racial Discrimination believed that the changes which had been made to the Native Title Act were discriminatory to indigenous title holders. The Committee had also called on the Australian Government to suspend implementation of the amendments and reopen discussions with the representatives of the aboriginal and Torres Strait islander peoples.

37. The Australian Constitution should also be amended to secure recognition for and protection of indigenous rights, to establish a mechanism to ensure

that indigenous rights were respected, and to conclude agreements on relations between indigenous and non-indigenous peoples based on partnership and mutual respect.

38. The Commission on Human Rights should include the theme of the elimination of racial discrimination against indigenous peoples on the agenda of the forthcoming World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. The Conference should also closely examine the role of the media in general and the Internet in particular in inciting racial hatred, as well as how the media could be used to combat racial discrimination.

39. Ms. GUTIERREZ (Latin American Human Rights Association) said that the Latin American Human Rights Association was a national indigenous organization representing 56 indigenous Mexican peoples whose rights had been systematically violated and whose cultures had been progressively denigrated since the start of the colonial period. Indigenous peoples were marginalized, poverty-stricken and subject to discrimination. She thanked Governments which had promoted the indigenous cause and Ms. Daes for her report on indigenous people and their relationship to land.

40. Indigenous peoples throughout the world were willing to forge a new relationship with national Governments, as evidenced for example by the signing of the San Andrés agreements in Chiapas in February 1996. Unfortunately, those agreements had remained a dead letter, the agrarian conflicts had continued and the Government, preferring force to negotiation, was currently conducting a vast military offensive in Chiapas.

41. The land problem in Mexico had not gone away. Indigenous communities with titles to property had been dispossessed of much of their land. Decisions by the courts ordering the return of the land had not been implemented. Yet land formed the basis of the physical, material and cultural existence of indigenous peoples. The international community should act urgently to prevent further violence in the areas of Mexico which were home to indigenous peoples and urge the Mexican Government to reopen dialogue.

42. Ms. CASATI (Observer for Paraguay) said that Paraguay was home to 50,000 indigenous people out a total population of 5.5 million. The rest of the population was a harmonious mixture of Spanish colonists, Guaranis and immigrants who had arrived in the country at a later date. Interbreeding in Paraguay had been so rapid that Don Hernando Arias de Saavedra, appointed Governor of Paraguay in 1596, had been the fruit of a union between a Spanish father and a Guarani mother. Yet the country's Guarani culture had not been submerged.

43. In order to resolve the problem of the landless peasantry, the Paraguayan authorities had launched a programme of agrarian reform designed to provide every farmer with land, for example by expropriating abandoned land.

44. In Paraguay, all persons were equal in dignity and rights and discrimination did not exist. The Constitution guaranteed indigenous peoples the right to participate in the economic, social, political and cultural life of the country while respecting their traditions. It acknowledged their right

to hold land collectively and to develop their ethnic identity, provided of course that they did not undermine the fundamental rights enshrined in the Constitution, thereby avoiding any unfair discrimination against the rest of the population. It was wrong to extend privileges to one section of the population while withholding them from others. The original inhabitants of Paraguay could not be identified with any certainty. In order to establish a developed and stable society, it was necessary to strike a balance between the past and the present and respect the country's heritage.

45. Given the characteristics of the country, it would be difficult to hand over to indigenous people all the land which they considered necessary to preserve their traditional way of life without using new agricultural techniques. The Paraguayan Government was prepared to do everything in its power to ensure that indigenous people played an active part in national life in accordance with article 34 of ILO Convention No. 169, which stated that the nature and scope of measures to give effect to the Convention should be flexibly defined and take account of the specific conditions in each country.

46. The Mennonites in the Chaco region had become major food producers and had played a significant role in civilizing indigenous communities while respecting their traditions.

47. Mr. LABBE (Observer for Chile) said that throughout the nineteenth century and for most of the twentieth century, Chilean national policy towards indigenous peoples had been integrationist in character. Furthermore, the authorities had resorted to legal quibbles in order to strip indigenous peoples of their lands. That policy had been pursued even more vigorously under General Pinochet's military regime.

48. Thus in 1989 indigenous communities had lost over 700,000 hectares; they currently held no more than 80,000 hectares. Government policy towards indigenous peoples had changed radically since the restoration of democracy. The indigenous population was considered an integral part of the nation and its cultural identity had been respected. Moreover, in the past nine years, the State had recovered over 240,000 hectares which had been restored to the indigenous communities. The cost of the transfer had been $628 million.

49. In addition, the law prohibited non-indigenous people from acquiring indigenous lands. The Government had requested Parliament to ratify ILO Convention No. 169 nine years previously but to date the Senate had blocked the initiative.

50. His Government was aware of the problems facing indigenous peoples and was endeavouring to address them. To that end it had established the Indigenous Development Corporation, the board of which comprised representatives of the eight major ethnic groups in the country elected by secret ballot by their own communities.

51. It was true that much remained to be done, but the results to date had been the fruit of ongoing dialogue between the Government and the genuine representatives of the indigenous communities. Unfortunately, that state of affairs had upset certain leaders who were not representative; to make

themselves heard, they had resorted to violence, thereby considerably complicating the efforts of the Government, which was obliged to respect the rule of law.

52. Mr. Alfonso Martínez was to be congratulated for his extremely valuable report concerning treaties, agreements and other constructive arrangements between Governments and indigenous populations. His conclusions on the validity of the treaties ratified by indigenous peoples were holistic and enlightened in their approach. However, it might be useful to summarize in a separate document the comments which the Special Rapporteur's report was sure to provoke.

53. Mr. REN Yisheng (Observer for China) said that, under the able direction of Ms. Daes, the Working Group on Indigenous Populations had won the respect of the international community and had done much to raise awareness of the plight of indigenous communities which were still suffering from the odious effects of colonialism and the failure to accord them equal rights.

54. He welcomed the fact that the report prepared by Mr. Alfonso Martínez had included the views and suggestions of the Sub-Commission's experts and other parties concerned. The report was very scholarly and laid a foundation for future study of indigenous populations. Mr. Alfonso Martínez had taken care to define indigenous populations and distinguish them very clearly from national or ethnic minorities. The most salient characteristic of most of the world's indigenous populations was the fact that they had lived on their land since time immemorial prior to the arrival of settlers who had enslaved them politically and economically. China endorsed paragraphs 67 and 68 of the report which advanced the view that, historically speaking, the concept of "indigenous people" was not applicable in Asia. Foreign colonial rule of Asian peoples had passed into history. Consequently, Asia was home to minorities rather than indigenous peoples.

55. There was no indigenous issue in China. All of China's ethnic groups, including the Han, had coexisted for 5,000 years and had treated each other equally. Each ethnic group had made its own distinctive contribution to the unity and development of the country.

56. Ms. DWARKA-CANABADY (Observer for Mauritius) said that her delegation attached great importance to the reports prepared by Ms. Daes and Mr. Alfonso Martínez, which had highlighted a number of interesting although difficult issues. It would be useful to share the contents of the reports with major regional organizations, not only to sensitize them to the issues involved, but also to seek their views. Her delegation had in mind, in particular, the Organization of African Unity (OAU), whose political affairs division was extremely active, the African Commission on Human and Peoples' Rights and the Southern African Development Coordination Conference (SADCC).

57. Mr. NEGRIN (Observer for Mexico) said that Mexico's indigenous populations, which numbered some 10 million people, formed part of the richness and diversity of the Mexican nation. Unfortunately, for centuries they had been subject to oppression which they could only overcome if their identity was fully acknowledged and respected. The Mexican Government had therefore initiated a new policy based on dialogue, negotiation and

consultation with the indigenous communities. The Mexican Congress was currently considering a reform of the Constitution which aimed to give the autonomous populations new political, legal, economic, social and cultural rights. To date, 18 of the 32 Mexican states had undertaken constitutional and legislative reforms towards that end. Autonomous jurisdictions had been established, for example to examine land-related issues in a way that took account of the various forms of land ownership. Furthermore, in accordance with the San Andrés agreements, a variety of federal laws on various topics such as the environment, forestry and royalties had been amended. Special bodies had been established, particularly under the Human Rights Commission, to promote the rights of indigenous peoples. In some states, courts officered by indigenous people had been established to settle inter-community disputes. The Government had also prosecuted persons who violated indigenous rights. In July, 20 people had been convicted in a court of first instance in connection with the Acteal massacre of December 1997.

58. His Government rejected allegations that the Mexican army had recruited or armed paramilitary groups. It was true that illegal armed civilian groups existed, particularly in the Chiapas region. The army limited itself to duties connected with the maintenance of public order, and only intervened in exceptional cases. Such an incident had occurred recently when a road-construction firm had encountered resistance from the Ejército Zapatista para la Liberación Nacional (EZLN). In reality, the Mexican Government had spared no effort to encourage indigenous populations, particularly in Chiapas, to overcome their economic and social backwardness.

59. Mr. Ramishvili, Vice-Chairman, took the Chair.

60. Mr. JOINET said that the issue of indigenous populations had become a topic of discussion during the cold war. The issue was still highly sensitive because in some political circles it was believed to be a destabilizing factor. The Sub-Commission had managed to overcome that obstacle, thanks largely to the work of Ms. Daes and Mr. Alfonso Martínez.

61. Their reports demonstrated that the relationship of indigenous peoples to land excluded a conventional legal approach. It was clear that, where such populations were concerned, it was impossible to apply the conventional rules of land ownership. That was why, in paragraph 307 of his report, Mr. Alfonso Martínez had recommended the establishment of entirely new jurisdictions to deal exclusively with indigenous issues, independent of existing governmental structures. But at the same time, the tie with the State should not be severed completely. It was therefore hard to imagine how such jurisdictions could be completely independent.

62. Ms. DAES thanked all the experts, NGOs and observer delegations which had taken the time to read her report and had commented on it. She appreciated the clarifications made by the delegations from Member States regarding the situation of indigenous populations in the countries concerned. In addition, a number of NGOs had made suggestions concerning the time allotted for meetings of the Working Group on Indigenous Populations, which would be taken up in the relevant draft resolution.

63. Mr. ALFONSO MARTINEZ said that the debate on agenda item 7 had been of very high quality. It had been an extremely open discussion which had accommodated a number of sometimes discordant views. As Mr. Eide had rightly remarked, document E/CN.4/Sub.2/1999/20, far from being the last word on the subject, had in fact been a starting point for further reflection. Referring to the comments made by Mr. Fan Guoxiang, the important point was not to decide whether indigenous issues were of more relevance to Africa or Asia. The core issue was self-determination. Mr. Weissbrodt had proposed defining a concept along the lines of "indigenous self-determination". But self-determination did not need to be qualified. Self-determination was self-determination, just as interference was interference, even when carried out for humanitarian purposes. Likewise, torture was still torture, even when it was claimed to be inflicted in moderation. However, self-determination did not necessarily imply secession or independence; it simply meant that Governments should respect choices made by indigenous populations.

Statements in exercise of the right of reply

64. Ms. JAHAN (Observer for Bangladesh) said that her delegation deplored the tendency to introduce extraneous issues into the debate on indigenous peoples. As had been stressed repeatedly, indigenous peoples were those who had lived on their land since time immemorial and had been dispossessed of their land at some stage in their history. A clear distinction needed to be drawn between the notion of an indigenous population and that of a tribe or ethnic group. That distinction was clearly brought out in paragraph 76 of Mr. Alfonso Martínez's report.

65. Mr. DO NASCIMENTO PEDRO (Observer for Brazil) said that his Government wished to invite representatives of the NGO Liberation to visit Brazil in order to study the situation of indigenous peoples at first hand. The peoples in question were dispersed across a vast swathe of territory equivalent to the size of France and Great Britain combined. In the Xingu national park, 3,600 indigenous peoples belonging to 14 different ethnic groups occupied an area the size of Belgium. It was true that the process of demarcating indigenous lands, which required a multidisciplinary approach, was perhaps not advancing as rapidly as Liberation would wish. The political will of the Brazilian Government to respect the rights of indigenous peoples could not be faulted; it was quite prepared to entertain a dialogue with Liberation on the matter.

66. Mr. RUIZ Y AVILA (Observer for Mexico) said that two NGOs, namely Humanitarian Law Project and Franciscans International, had claimed that his Government was waging all-out war against the indigenous peoples of the Chiapas region. It should be noted not only that his Government had adopted a law amnestying members of the Ejército Zapatista para la Liberación Nacional (EZLN), but also that, in March 1999, representatives of that movement had been able to travel throughout the country unmolested as part of a nationwide consultative process. Having accepted a political solution, the EZLN had then refused to continue negotiations and had suspended implementation of the San Andrés agreements. On 13 July 1999, the authorities in Chiapas had launched a reform programme which had subsequently been endorsed by 16 of the 32 insurgent municipalities, the so-called autonomous municipalities. As for persons displaced within Chiapas as a result of guerrilla operations, the Mexican Government and the International Committee of the Red Cross (ICRC) had devised a joint programme to enable them to return

to their communities of origin. A number of NGOs had also visited Chiapas without any restrictions; some had been obliged to leave the area after violating Mexican law. The soldiers who had recently been sent to Chiapas were there for the sole purpose of providing protection to road-building firms in the area.

67. The sparsely populated Chimalapas region had been declared a protected zone, meaning that local people were expected to respect relevant environmental protection standards.

68. Mr. LABBE (Chile) said that his Government highly appreciated the work of NGOs. Naturally enough, they occasionally said things which Governments did not like to hear. However, some of what had been said by certain NGOs about Chile was downright nonsense, for example the claim that there were "armed militias" in Chile. If the NGOs making those claims had the slightest acquaintance with his country, they would soon realize that such allegations were absurd. They should concentrate their energies on being serious.

69. The Chairman declared the discussion on agenda item 7 closed.

PREVENTION OF DISCRIMINATION AGAINST AND THE PROTECTION OF MINORITIES (agenda item 8) (E/CN.4/Sub.2/1999/21 and 37; E/CN.4/Sub.2/1999/NGO/2, 6, 11 and 18)

70. Mr. EIDE, speaking as Chairman-Rapporteur of the Working Group on Minorities and introducing agenda item 8, said that it was only in 1992 that the General Assembly, responding to the concerns of a number of groups which were anxious to preserve their identity, had adopted the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. The Sub-Commission had subsequently established the Working Group on Minorities, whose mandate was to examine the implementation of the Declaration, suggest solutions to the problems facing minorities, and recommend measures to protect their rights. Since its very first session in 1995 and its most recent in May 1999, the Working Group had benefited from the participation of Government observers, representatives of various bodies in the United Nations system, NGO observers and experts on the issue of minorities. The specialized agencies, in particular the Office of the United Nations High Commissioner for Refugees (UNHCR), ICRC, the World Health Organization (WHO), the United Nations Development Programme (UNDP), the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the United Nations Children's Fund (UNICEF) had also shown close interest in the Working Group's activities. It had thus become a forum for dialogue where views had been exchanged on the causes of problems facing minorities, in particular the forced displacement of populations and their repatriation, the establishment of rapid-reaction mechanisms and the role of the media in promoting tolerance and understanding. Considerable importance had been attached to multicultural and intercultural education.

71. At its 1999 session, the Working Group had considered it important to encourage regional organizations to send representatives to its meetings. It had also noted that Africa was under-represented, mainly owing to a lack of resources. The Working Group had therefore recommended that UNHCR should launch an appeal for donors in order to facilitate the participation of certain minority groups in the activities of the Working Group.

72. The Working Group was currently preparing a manual for publication in minority languages. It would include the text of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, an explanatory note concerning the principles contained in the Declaration and the procedures and mechanisms available to members of minority communities in order to publicize their concerns. A revised version of the text would be submitted to the Working Group at its next session.

73. In May 1999 the Working Group had made a special study of the effective participation of minorities in all areas of life, which implied proper representation in legislative, administrative and advisory bodies. There was also a need to remove obstacles to the acquisition of citizenship by members of minority communities. All those factors were closely linked to an awareness of the plurality of cultures, whence the importance of multicultural and intercultural education. The issue would be taken up again at a seminar to be held in Canada in September 1999.

74. The Working Group wished to pay tribute to one of its most eminent participants, Mr. Neelan Tiruchelvam, a representative of the Tamil minority in Sri Lanka, who had been killed by a bomb as he left his house in Colombo. The terrorist organization which habitually carried out those attacks had once again intended to wreck the possibility of a peaceful settlement of the conflict between the majority and minority populations. It was to be hoped that the settlement plan for Sri Lanka drawn up by Mr. Tiruchelvam would be implemented and bring peace to that conflict-stricken island.

75. Ms. CECHUROVA (Transnational Radical Party) said that the tendency to define a multi-ethnic State as the property of one ethnic group was a fatal political error which could only lead to conflict.

76. A misguided policy was being pursued in the Former Yugoslav Republic of Macedonia, where the country had been defined as the property of Macedonians and any attempt at historical or cultural self-determination by Albanians had been branded "secessionist". The planned establishment of an Albanian university had been forbidden by the authorities on the pretext that it would encourage "parallelism" in Macedonian society, and there were tight restrictions on the use of the Albanian language in higher education. Moreover, despite comprising a third of the population, Albanians were significantly under-represented in the civil service, where they occupied just 3 per cent of the posts. Although there were leaders on both sides who maintained that coexistence between Albanians and Macedonians was possible, mutual distrust had undermined the democratic system and made it impossible to articulate the interests of the majority and the various minorities in a multi-ethnic Macedonia. In some societies, minorities which had been denied access to power eventually lost their loyalty to the regime. Such societies needed to overcome the emphasis on belonging to a particular ethnic group and concentrate on building consensus rather than opposition. The Sub-Commission should take all necessary steps to encourage the Former Yugoslav Republic of Macedonia to secure equal rights in law and in fact for all its citizens.

77. Ms. LEVERGER (France Libertés-Fondation Danielle Mitterrand) drew the attention of the Sub-Commission to the oppression of the Vietnamese Caodaists, followers of a minority religion with 4 million adherents who lived chiefly in

southern Viet N m. Over the past 20 years, the Vietnamese Communist Party had dispersed the Caodaist leadership and confiscated most of its holy places, thereby violating the Vietnamese Constitution which guaranteed religious freedoms and protected places of worship. The true Caodaist leaders had begun a campaign of dissent and were continuing to defend their rights. They had sent a petition to the Vietnamese Government which had still not been answered.

78. The Kurds, another age-old and oppressed minority, had been unnaturally split between four different States which refused to recognize them as a minority. The Kurdish people had experienced constant violations of their basic rights, including the mass deportation of more than 3 million people, the destruction of thousands of villages, the murder and censorship of intellectuals, and the Turkish ban on the use of the Kurdish language and the perpetuation of Kurdish culture which had been imposed on 15 million people. The international community should stop treating the Kurds with indifference and ensure that they were recognized as a national minority in the Islamic Republic of Iran, Iraq, the Syrian Arab Republic and Turkey.

79. Mr. BEERSMANS (International Movement for Fraternal Union among Races and Peoples), outlining the situation in Jammu and Kashmir, said that in 1990 the Hindu minority in the Kashmir valley had been the target of atrocities committed by Muslim fundamentalists, as a result of which some 300,000 people were still forced to live in inhuman conditions in camps. The Lahore peace declaration signed in February 1999 by the Prime Ministers of India and Pakistan had unfortunately never been implemented. In May 1999, an undeclared war had broken out between the two countries when units of the Pakistani regular army had entered the north-eastern sector beyond the line of control and forced 30,000 people to flee their homes. Although Pakistan had since been obliged to withdraw its troops under pressure from the international community, the situation was still far from normal and shelling had continued in the north-eastern sector. In other areas of Jammu and Kashmir, foreign mercenaries were waging a systematic campaign of annihilation against Hindus, moderate Muslims and political leaders. In order to end the sufferings of the people of Jammu and Kashmir and find a peaceful solution to a conflict which had lasted for more than 50 years, the Indian and Pakistani Governments should observe their mutual obligations and resume negotiations on the basis of the Shimla agreement and the recent Lahore peace declaration.

80. Ms. TANAKA (International Movement against All Forms of Discrimination and Racism) said that she welcomed the proposal made by several members of the Sub-Commission under agenda item 3 to conduct a study on the Roma and the Sinti. Discrimination and prejudice against those minorities continued to be deep-rooted in many European countries. In Bavaria in southern Germany, for example, the authorities had continued the practice of specially registering the Roma and Sinti communities in the name of "preventive crime combat", maintaining that they were a danger to public order. Similar terms had once been used by the Nazi regime.

81. In Asia, the Dalits or "untouchables" continued to be subject to collective discrimination, particularly in India where they numbered 150 million. In Tamil Nadu, people still believed that untouchables could transmit impurity merely by physical contact or close proximity. There and

elsewhere, their rights were systematically flouted. They were denied access to water and their freedom of movement, expression and assembly was curtailed. Because they belonged to an inferior caste, they were forbidden to marry people from other castes or to acquire wealth. Dalit women working as agricultural wage earners were physically and sexually abused by landlords who normally belonged to other castes. More generally, Dalits were subjected to inhuman, degrading and unfair labour practices.

82. In southern Asia, the ethnic conflict in Sri Lanka was a matter of great concern. It was disappointing that the Sri Lankan Government had delayed the introduction of constitutional reforms. It was essential to find a peaceful solution to the conflict, and the murder of Neelan Tiruchelvam was to be condemned. All the parties concerned should initiate a dialogue and call upon the United Nations to facilitate the process.

83. The recent tragic ethnic conflicts in Rwanda and Kosovo had demonstrated the importance of early intervention and prevention mechanisms. To that end, the Working Group on Minorities should play a greater role in helping minorities throughout the world to make their voices heard. Governments should make voluntary contributions to enable more minority representatives to participate in the Working Group.

84. The CHAIRMAN said that, when it had completed its consideration of agenda item 8, the Sub-Commission would take up agenda item 1 (c) (Methods of work of the Sub-Commission).

85. Mr. ALFONSO MARTINEZ said that, in its report on the rationalization of the work of the Commission on Human Rights (E/CN.4/1999/104), the Bureau of the fifty-fourth session of the Commission had stated in its Observation 27 that the Sub-Commission was the most expensive United Nations body. Section 22 of the proposed programme budget for the biennium 2000-2001 (A/54/6) stated that the services provided to the Sub-Commission were four times more expensive than those provided to the Commission on Human Rights. He would be grateful for more information on the reasons for that discrepancy, particularly when it was borne in mind that the Commission on Human Rights met for much longer than the Sub-Commission and required a much wider range of services.

The meeting rose at 6.10 p.m.

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SUB-COMMISSION ON THE PROMOTION AND
PROTECTION OF HUMAN RIGHTS

Fifty-first session

SUMMARY RECORD OF THE 20th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 18 August 1999, at 10 a.m.

Chairman: Mr. HATANO

later: Mr. RAMISHVILI
(Vice-Chairman)

later: Mr. HATANO
(Chairman)

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GE.99-14986 (E)

The meeting was called to order at 10 a.m.

EXPRESSION OF SYMPATHY IN CONNECTION WITH THE RECENT EARTHQUAKE IN TURKEY

1. Mr. PARK Sang-yong, referring to the earthquake that had struck north-western Turkey the previous morning, expressed his sympathy to the Government of Turkey and called upon all States and regional and international organizations to join in the efforts to provide humanitarian assistance for those affected. In the context of a natural disaster, the basic human rights to life, food, clothing, shelter and health acquired added cogency.

2. Ms. DAES, Mr. GUISSÉ, Mr. WEISSBRODT and the CHAIRMAN associated themselves with the statement by Mr. Park Sang-yong.

3. Mr. SUNGAR (Observer for Turkey) thanked the members of the Sub-Commission for their condolences. He also expressed his Government's gratitude to the many countries that had responded swiftly and generously to provide assistance to the victims.

PREVENTION OF DISCRIMINATION AGAINST AND THE PROTECTION OF MINORITIES (agenda item 8) (continued) (E/CN.4/Sub.2/1999/21 and 37; E/CN.4/Sub.2/1999/NGO/2, 6, 11 and 18)

4. Mr. PHILLIPS (Minority Rights Group) said that his organization wished to thank all those, including the Secretary-General of the United Nations and the High Commissioner for Human Rights, who had paid tribute to its former chairman, Neelan Thiruchelvam, recently killed by a bomb attack in Sri Lanka. No political movement had the right to use a national liberation campaign as a pretext for violating human rights and fundamental freedoms, whether of a minority or a majority. Dr. Thiruchelvam had been killed on 29 July 1999 for being too effective and too committed to resolving old hatreds.

5. The best homage the international community could pay him was to continue his work of promoting human rights and reconciliation in Sri Lanka. Minority Rights Group thus urged all the parties in Sri Lanka to move towards a just and democratic solution to the conflict, possibly with the involvement of a neutral party; supported initiatives for constitutional and legislative reform and devolution in Sri Lanka; and invited the High Commissioner for Human Rights to find an appropriate way of commemorating Dr. Thiruchelvam and celebrating his life.

6. Ms. VERGNASSI (European Union of Public Relations) said that the freedom of worship proclaimed by Mohammed Ali Jinnah, Pakistan's founding father, counted for nothing in contemporary Pakistan, a self-styled "democracy" where the Ahmadiyah and Zikri sects were persecuted and Sikh temples threatened with desecration; where leaders called for a jihad against Hindus, and where Christians and their children were sentenced to death under the blasphemy laws. Those laws had allowed police to stand idly by while fundamentalist mobs ransacked Christian homes, burned Bibles and molested women in the Punjabi town of Shantinagar; and had led to the suicide of Bishop John Joseph in protest against a death sentence imposed on a Christian for blasphemy.

7. Discrimination against women was already enshrined in Pakistani legislation and fundamentalist Sunni groups closely allied with the Taliban were flourishing, as women were learning to their cost. The growing influence of the Taliban provided a chilling foretaste of what lay in store for Pakistan's minorities.

8. Ms. SHAUMIAN (International Institute for Peace) said that the irrational notion was gaining ground that some groups were fundamentally incompatible with a society. Majority communities thus sought to suppress minorities by constitutional, legislative and cultural means. The Sub-Commission should honour the memory of Bishop John Joseph, who had killed himself in protest at the continued application of Pakistan's blasphemy laws, by urging States, including Pakistan, to ensure that persons belonging to minorities enjoyed the full exercise of all their human rights.

9. With the end of the cold war, internal and international ethnic and territorial tensions had erupted with renewed vigour. The essential political problem facing the international community on the eve of the new millennium was how to reconcile the right to ethnic sovereignty with the insistence on territorial integrity. Multinational States must adopt new approaches to resolving tensions, taking account of the changing face of the contemporary world, and without recourse to military force. In that connection, her organization drew attention to the continued use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination.

10. Mr. BHAN (Indian Council of Education) said that majority communities in nation States were responding to racial, linguistic and religious diversity with discriminatory and oppressive measures, using constitutional, legislative and cultural structures to force minorities to conform. Discriminatory measures were to be found in the legislation of most States parties to the international instruments prohibiting discrimination. Stern measures must be devised to compel States to dismantle the legislative and constitutional structures that promoted discrimination against minorities.

11. Mr. KHALIFA paid tribute to Mr. Eide, Chairman-Rapporteur of the Working Group on Minorities, for his continuing dedication to the cause of minorities. Mr. Eide's work on the topic was all the more significant in that it had begun against the turbulent background of the disintegration of the Soviet Union in the early 1990s. He himself recalled predicting, at the Sub-Commission's forty-sixth session, that it should prepare for a proliferation of mini-States. And indeed, the number of States Members of the United Nations had increased in the last 10 years from 156 to 185.

12. The slackening of the balance of power in the 1990s had resulted in a scramble by small groups to assert their right to self-determination - though it was worth noting that more than 100 nationalities had coexisted peacefully in the Soviet Union, albeit at some cost to their freedom.

13. The root of the problem was discrimination. Discrimination was a poison that fed prejudice and intolerance, leading to rejection of the other. Factors such as interference by foreign vested interests also fanned the flames. Major Powers preferred to deal with divided and exhausted entities.

14. While Europe, with its diversity of nationalities, languages and cultures, was tending towards unity, the trend in the less developed world was towards a fragmentation into mini-States. The challenge facing the Working Group was to halt that avalanche. Tiny minorities needed no further encouragement to secede. Certainly they deserved all possible support to attain full equality within existing borders. To safeguard peace, however, existing borders should be preserved and stabilized, for some time at least. That comment did not, of course, apply to sizeable minorities that had long suffered intolerable injustice and had exhausted all other means of securing their deliverance.

15. Nonetheless, the right to self-determination must be kept within reasonable limits. The concept of self-determination extended from simple local self-management, through autonomy and self-rule, to full-scale secession. The notion of a "minority" should be interpreted stricto sensu, so as to dissuade small groups from breaking away and forming small, unviable entities, unfit for statehood.

16. The current tendency to inflate the concept of minorities was exemplified by the Sub-Commission's consideration of religious minorities to be minorities within the meaning of article 27 of the International Covenant on Civil and Political Rights. If the faith or belief at issue had no ethnic, linguistic, racial or cultural traits differentiating it from the majority, its adherents were certainly entitled to equality and freedom from discrimination; but they could hardly be regarded as entitled to the ultimate right of minorities, namely, self-rule or a separate State.

17. By indulging its fascination with the minorities issue, the Sub-Commission would be denying diversity, which was a source of strength. Thus, the United States of America was a melting pot of differing ethnic groups, beliefs and cultures which, in the course of two centuries, had risen to world pre-eminence.

18. The Working Group should make the elaboration of a better definition of a minority a priority in its future work; for its task was to prepare the ground for a convention and, in a convention, every term must be quite clear-cut. Consideration must also be given to the question whether an oppressed majority could be regarded as being equivalent to a minority.

19. The Working Group deserved all possible praise. Its report on its fifth session (E/CN.4/Sub.2/1999/21) contained a wealth of valuable contributions from eminent sources. It must, however, be aware of the pitfalls that lay in its path; and, in particular, must guard against the temptation to venture into the minefield of politics. Every minority complaint or dispute had a political component. The Working Group was entitled to use good offices, facilitate contacts, and preach peaceful solutions: nonetheless, it remained a Working Group of the Sub-Commission, and should not venture to pass political judgements. In respecting that proviso, it would be proving its wisdom and giving valuable service on a problematical issue.

20. Mr. FAN Guoxiang said that he had reservations concerning the Working Group's recommendation that minorities should be involved at the international level in the formulation, adoption, implementation and monitoring of standards

and policies affecting them (E/CN.4/Sub.2/1999/21, para. 82 (b)). Minority issues had to be discussed within countries and, while international concern was legitimate, it was not legitimate to place minorities on the same level as countries.

21. Minorities should not just be passive recipients of protection but, as equal members of the country in which they lived, should participate actively in all aspects of their own protection, and in legislative, administrative and advisory bodies at the local, regional and national levels. The question of minorities had to be dealt with on the assumption that minorities were a part of the country concerned; they should respect that country's jurisdiction and, if they had complaints or problems, they should make use of the legal process. Employing violence or engaging in insurgency was not acceptable.

22. The common denominators of the dialogue should be that the unity of the country was paramount and that all members of society must act within the law. People should not engage in an unconditional dialogue if, at the same time, they were carrying out separatist activities and arguing that the area in which they lived was not part of the country. Mr. Eide had spoken of the existence of "conflict entrepreneurs", who were trouble-makers rather than solution-seekers; it was the bridge builders who should command respect.

23. Mr. SHAMSHUR said he welcomed the trend evident in the report of the Working Group on Minorities on its fifth session (E/CN.4/Sub.2/1999/21) for the Group to be continuously preoccupied with rationalizing its working methods and devoting its sessions to specific pressing problems. He also supported the creation of a broad database on minority issues and the holding of regional seminars, which might help to correct the imbalance of the Working Group tending to concentrate on Europe-related issues.

24. Its recommendations on effective participation and on the issue of multicultural and intercultural education were commendable. A more challenging task was the creation of a viable framework for constructive interaction at various levels of society between majorities and minorities and between the various minorities. The recommendation that a manual be prepared on the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities was also deserving of support.

25. The highly controversial topic of a definition of minorities had serious implications in terms of government policies towards minorities, although discussion of minority issues in many countries might be more structured if a standard definition existed. The Working Group would undoubtedly be returning to the question of a definition in the future.

26. If it was agreed that citizenship was an important condition for full and effective participation, then the Working Group was right to consider it but, in his own opinion, the Working Group was not the most appropriate forum for discussing the issue of dual citizenship and he could not agree with the broad interpretation of the right to a nationality, laid down in the Universal Declaration of Human Rights, as constituting an obligation on the part of a State to grant its nationality to individuals who were permanent residents. The Working Group should concern itself rather with the promotion of non-discriminatory practices and procedures.

27. Lastly, he endorsed the view expressed in the report that States should be encouraged to submit information on best practices. Governments that sought and implemented measures to address the needs and promote the rights of minorities despite difficult economic or political circumstances deserved active encouragement, even if their work did not produce immediate and visible results.

28. Mr. ALFONSO MARTÍNEZ said that the Sub-Commission should discuss dual citizenship, an issue with a great practical impact on people's daily lives that needed to be understood better. The purposes which the implementation of minority rights should serve were: ensuring equality between all individuals and minorities in a society; contributing to the enjoyment of all human rights by all members of a society; guaranteeing access to resources on a basis of equality; and integrating all minorities as essential components of peaceful, democratic and pluralist societies and ensuring harmony and stability within and between States.

29. The core issues in the promotion of minority rights and the preservation of their identity were language and education and cultural aspects in general. Political participation was a very thorny issue, since the persons concerned often wished to continue to maintain links with their countries of origin; that element had to be taken into account when considering the possibility of their participation in the political life of the country in which they lived.

30. The Working Group had expressed its firm conviction that all issues relating to minorities should be solved by peaceful means at the national and international levels and that the threat or use of force in contravention of the provisions of the Charter of the United Nations was a violation of the general principles and standards of international law and threatened international peace and security.

31. Lastly, the Working Group had expressed its concern at the scanty resources available to the Office of the High Commissioner for Human Rights (OHCHR) to carry out a task which should, in fact, be expanded. The Sub-Commission should recommend to the Commission and the Economic and Social Council that all avenues be explored so that, through education and the dissemination of information, minorities were made aware of the culture, language and customs of others, because that was an essential element in establishing peaceful coexistence between groups with different ideas, cultures and approaches.

32. Ms. UDAGAMA said that her lamented friend and colleague, the late Dr. Neelan Thiruchelvam, had described as the singular tragedy of the times that, despite 50 years of endeavours to protect and promote human rights globally, the era was still one in which genocide dominated the international news. Minds had become smaller, the world view of many had contracted and become parochial and, consequently, the coexistence of different groups in a given society had become more difficult. Most contemporary armed conflicts were centred around disputes between majority and minority communities.

33. A number of the initiatives of the Working Group on Minorities were to be encouraged. The effort to put together an authoritative Commentary on the Declaration on the Rights of Persons Belonging to National or Ethnic,

Religious and Linguistic Minorities could encourage civil society actors and policy makers to use the Declaration more effectively since it would demystify the Declaration's principles and be a useful tool in influencing jurisprudence. The planned manual on the Declaration explaining its principles and offering guidance to its procedures and mechanisms would, if it were translated into as many languages as possible, increase general knowledge of the Declaration and contribute to the empowerment of minority groups. As for the initiative to establish a worldwide database on minority issues, it should be expanded to include a guide on best practice covering all institutional arrangements and the relevant comparative jurisprudence. The project was an ambitious one, but it was of inestimable value and should benefit from OHCHR assistance.

34. The Working Group was also discussing the possibility of drafting a convention on minority rights and establishing a specialized minority rights complaints mechanism within the United Nations system. The more immediate need, however, was to explore ways and means of creating early warning systems: the ethnic conflicts in Rwanda, Burundi and the former Yugoslavia might well have been avoided if such a mechanism had existed and timely action had been taken.

35. Lastly, she wished to clarify a point attributed to her in paragraph 22 of the report (E/CN.4/Sub.2/1999/21) which stated that, in respect of article 4.1 of the Declaration, she had proposed that emphasis be placed on the enjoyment of human rights by all members of the community, both minorities and majorities. In fact, the point she had made was the need to emphasize the enjoyment of rights by all within a minority community especially without gender discrimination. The subjection of women to oppression and denial of human rights often took place in the name of preserving tradition and cultural identity.

36. That was the darker side of identity politics, which had also denied the Sub-Commission the presence and vision of Dr. Thiruchelvam, whose death had been an unbearable loss to all communities in Sri Lanka. It was essential to ensure that he had not died in vain.

37. Ms. DAES said that the discussion in the Working Group regarding the Commentary on the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (E/CN.4/Sub.2/1999/21, paras. 19-24) had shown that more work had to be done to clarify some important concepts such as the distinction between "national" and "ethnic". Experience had shown, moreover, that defining the concept of minority at the global level was no easy task; there were different views and different considerations at both the national and international levels.

38. She proposed that the Chairman-Rapporteur or a member of the Working Group should prepare a comprehensive working paper containing criteria that should be applied in order to determine whether a person belonged to a minority or was an indigenous person. It would also be useful to have a one-day joint meeting of the Working Groups on Minorities and on Indigenous Populations to discuss the adoption of such criteria.

39. She was in favour of intercultural education as a way of providing minorities with opportunities to acquire knowledge of society as a whole, of the establishment of a database containing information on special procedures and treaty bodies, and of the request that the Secretary-General give the Working Group every assistance in fulfilling its mandate.

40. Mr. GUISSÉ, having congratulated the Working Group on its thought-provoking report (E/CN.4/Sub.2/1999/21) which provided an excellent foundation for its future activities, said he agreed with the Group that a definition of "minorities" was neither necessary nor feasible. The Group's work could be sufficiently delimited by basing it on the provisions of international instruments that enumerated very precisely the various existing minorities, which could be identified by their practices, traditions and specificities. He was pleased to note that the Working Group had taken into account criticisms of the geographical scope of its work.

41. As integral parts of a country, minorities had a duty to participate in all that country's activities, to join in the task of national construction, and in its economic development effort as a whole, and enjoyed the right to share in the benefits of economic development. Some minorities, however, failed to understand their obligation to function as part of a national entity. Self-determination and separatism should not be confused. It would be a mistake to think that self-determination opened up an avenue to pursue separatism. In the course of the debate, the idea of parallel legislation had been canvassed. That he regarded as a mistaken course which could undermine the unity and integrity of States. Its dangers were particularly evident in Africa, where it had constituted a serious threat to the national stability.

42. Mr. WEISSBRODT, having commended the Working Group on Minorities on its useful review of the promotion and implementation of the Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities, said that he had singled out for special mention the current situation of the Roma people, commonly known as "gypsies", who were scattered across many countries, mainly in Europe and suffered many disadvantages. Despite their cultural and ethnic distinctiveness, they were often not recognized as a protected minority by national law. They had been among the victims of the Nazi holocaust and were often denied access to education within the public system and to reasonably paid employment, or indeed to employment at all. Moreover, their lack of documentation was a barrier to the granting of citizenship and access to social benefits.

43. The Human Rights Committee had, on 28 July 1999, expressed its concern about discrimination against the Roma minority in Romania and the Committee on the Elimination of Racial Discrimination had expressed similar concerns regarding Bulgaria, the Czech Republic and Italy, although some of those countries, particularly the Czech Republic and Romania, were endeavouring to improve the situation.

44. There had so far been no adequate United Nations study of the situation of the Roma people, and he believed that the Sub-Commission could make a significant contribution if one of its experts were to prepare a working paper, without financial implications, on the protection of their rights, for submission to the Working Group on Minorities and the Sub-Commission at their forthcoming sessions.

45. Mr. BENGOA said that the emergence of groups claiming the right to exist as distinct entities from those around them had come to occupy a central position in international conflicts and presented a challenge beyond the capacity of traditional international instruments to address. There was a divergence of academic opinion about the causes of that phenomenon. Some argued that globalization was resulting in increasing cultural homogenization, which would eventually relegate the claims of minorities to a folklore level. Others did not share that view, arguing that globalization and the weakening of the integrating capacity of the State would unleash further eruptions of ethnic, linguistic, and national identities.

46. From the political point of view, Governments, States and the general public were at a loss to know how to deal with the emergence of those new identities. Most people would, perhaps, accept the phenomenon as an objective fact, but there was also movement towards a "subjectivist" or "constructivist" view which maintained that what was occurring was not a rebirth of old identities and traditions but a reinterpretation of the past, the history of the group or collective, in the context of globalization. Minorities had one eye on the past and the other on the future, on a new identity that they were seeking to shape.

47. That vastly complex situation imposed on the Sub-Commission the exceptionally difficult tasks of agreeing on a definition of minorities, of seeking good models of pacific coexistence, of effective forms of participation, and systems of negotiation to resolve conflict situations. In addressing those tasks the Working Group had an extremely important role to play and its activities deserved to be supported by adequate funding.

48. Ms. HAMPSON, having congratulated the Working Group on the report on its fifth session (E/CN.4/Sub.2/1999/21), which she had found thought-provoking, said that mobile minorities, such as the Roma, presented particularly difficult problems because their lack of political organization complicated the task of finding interlocutors. One useful step would be to organize an exchange of information between States on the way in which they addressed problems of that kind, which might make it possible to identify some models of good practice.

49. The participation of minorities in public life raised the issue of the scope of the right to self-determination. The Human Rights Committee, commenting on article 1 of the International Covenant on Civil and Political Rights, had suggested that a situation where a particular group in the population was denied the opportunity to participate in public life, might constitute an exception to the general rule that the principle of self-determination had no application in the case of a sovereign State. While, in situations of tension, such as in Bosnia-Herzegovina, the creation of parties based on ethnicity or nationality could exacerbate the situation, the denial of a vehicle through which a group's grievances could be articulated might encourage the resort to the illegal manifestations of frustration, as had occurred with Kurdish political parties in Turkey.

50. One way of reconciling such tension might be for the State to give positive encouragement to multiple identities, such as existed, for example, in the case of the Scots in Britain. States could advocate the advantages of

diversity whilst also building a collective identity. Dual citizenship could reduce the risks of intervention by one State in the affairs of another where its nationals also enjoyed citizenship. Much less tractable were the issues posed by indigenous minorities or minorities with no home state. Unlike, for example, migrant workers who, while entitled to the protection of their civil and political rights, might have restrictions imposed on the exercise of some of the latter, and the scope of whose economic rights might be different from that of nationals, that was not the case with such minorities whose situation might need to be addressed separately.

51. On the important question of the necessity to define the term "minority" she was keeping an open mind but thought it might be necessary to define the term so as to prevent a State from resorting to the ultimate form of discrimination, namely, a denial that it had any minority in its jurisdiction, when that was patently not so. Another question on which she had not made up her mind was whether it was more appropriate to handle the issues posed by religious minorities as a question of respect for religious beliefs, rather than a minority question as such.

52. Mr. EIDE, speaking in clarification of a point several speakers had raised concerning the disruption of States by minorities pursuing the right to self-determination, drew attention to article 8, paragraph 4, of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities which read: "Nothing in the present Declaration may be construed as permitting any activity contrary to the purposes and principles of the United Nations, including sovereign equality, territorial integrity and political independence of States." That seemed to him to exclude the pursuit of separatism on the basis of minority rights.

53. Mr. Ramishvili, Vice-Chairman, took the Chair.

54. Mr. SHINOJI (World Federation of Trade Unions) said that, while images of the mindless slaughter of minorities in various parts of the world would undoubtedly be in the minds of participants in the current discussion, he wondered whether the members of the Sub-Commission were fully aware that terrorist groups in Pakistan held public meetings annually at which they called for the death of Hindus, Jews and Americans and vowed to ensure the destruction of India because it had a majority population of Hindus. In that connection, he wished to highlight in particular the plight of the persecuted minority of Kashmir Pandits, who had created an ethos of religious tolerance that the fundamentalist mercenaries of Pakistan wished to destroy.

55. Mr. MUHAMMAD (Caucasians United for Reparations and Emancipation) said that, although the so-called African-Americans were a people not a minority in the United States, their status was that of a minority. They had, however, been denied the right to protect their culture and identity in violation of article 27 of the International Covenant on Civil and Political Rights and articles 2 and 3 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. By forcibly depriving African-Americans of their mother tongue, the United States Government had uprooted their collective identity, a condition that was irreversible.

56. He urged the United Nations to establish a forum for African-Americans at its Headquarters in order to restore their legal and political standing and their status as a people. The forum would set up a governing body, consider the devolution of parts of the United States Constitution, offer choices regarding "mother tongue", and discuss reclamation, reparations and, in some cases, migration to a friendly nation. The resulting package would be submitted to the United Nations and form the basis of a dialogue between African-Americans and the United States Government. The forum would be funded either by the United Nations or by Governments committed to the ideal of liberty.

57. He thanked the Sub-Commission for instructing the Working Group on Minorities to address the legacy of the slave trade in the Americas and elsewhere.

58. Mr. PANDITA (Interfaith International) said he gathered from the latest report of the Working Group on Minorities (E/CN.4/Sub.2/1999/21) that the controversy over the definition of a "minority" had been resolved. However, there was scope for further elucidation and interpretation of the term in the context of human rights. For example, where a national minority became a regional minority and its minority status was not formally accepted by the national or regional authorities, it was vulnerable to human rights violations. The same applied to minorities that were numerically small and thinly dispersed in a given region. The participation of such minorities in governance was generally impracticable.

59. The mere presence of a democratic form of government did not necessarily ensure protection for minority rights. In emerging democracies, minorities were oppressed by arrogant majoritarianism and the concept of the gentle persuasion of minorities had not yet taken root in third-world countries.

60. Another phenomenon that needed to be addressed was that of the external instigation of anti-minority sentiment in a region with which the instigators claimed to have ethnic, religious and linguistic bonds. Pan-Turkism or pan-Islamism, for example, in the former States of the Soviet Union and the Indian State of Jammu and Kashmir, had been hijacked by vested interests, who whipped up anti-minority frenzy that had led to atrocities. Ethno-religious cleansing of minorities was the worst manifestation of external manipulation.

61. A diaspora could also play a malicious role by discrediting minorities in the country from which its members had emigrated, in some cases influencing electoral trends. Even in advanced democracies, diaspora "vote bank" tactics were used for self-aggrandizement.

62. The question of return and resettlement of displaced or exiled minorities should be given more serious attention. Their secure return and rehabilitation would empower them to exercise their constitutional right to participate in governance and help them to establish their political and cultural identity. Minority groups, especially small groups that had suffered persecution, should be able to exercise their right of self-determination, as an autonomous region within a larger autonomous entity, for example.

63. Mr. WILKES (Consultative Council of Jewish Organizations) said he hoped that the United Nations Year of Dialogue among Civilizations in 2001 would take the role of minorities in the process of civilization seriously. The Sub-Commission should urge the United Nations bodies involved in the Year to draw on the services of experts in the rights of minorities and should sponsor a study of the topic for discussion by the Commission on Human Rights at its fifty-seventh session.

64. The persecution of minorities in countries purportedly guided by advanced "civilized" values undermined the whole idea of "civilization". Any dialogue about the values of civilization must look at the way its ideals were translated into practice at the governmental and social levels. The question was whether the persecution of a minority was simply a lapse from civilized ideals or whether it utterly subverted the claim of majorities to embody the civilization with which they identified. The persecution of the Jews in Europe had escalated at a time when the majority of Jews had eagerly adopted "European" values and culture.

65. The situation of Jews in the Muslim world had deteriorated in the nineteenth century, partly because they had integrated more fully into local society and had lost their distinctive European contacts and their technological and medical knowledge. On the other hand, in the preceding centuries of dynamic interaction between Christian, Jewish and Muslim communities, "Islamic" and "Western" society and culture had both been vitally affected by the contributions of minorities. The distinctive role played by minorities in the "dialogue of civilizations" had once been highly valued. He wondered how much it was still valued.

66. The Seminar on Islamic Perspectives on the Universal Declaration of Human Rights, hosted by OHCHR in November 1998, had laid the foundations for a scholarly dialogue to which scholars from minority groups living with Muslims could make a valuable contribution. The Jordanian Royal Institute for Interfaith Affairs had led the way in pursuing a scholarly dialogue between Christians and Muslims, which addressed, inter alia, the issue of the treatment of religious minorities. The Secretary-General should be urged to solicit voluntary contributions to fund such initiatives.

67. Through dialogue, majority and minority groups could increase respect for their differing approaches to civilization, but only if they acknowledged the dynamic relationship that existed between them. Nobody could claim to show civilized respect for the human rights of vulnerable groups unless they acknowledged the contribution that those groups had made to their civilization.

68. Ms. BATHA (World Evangelical Fellowship) said that minority religious groups often endured discrimination and persecution by representatives of majority religions or by a State bent on eradicating or controlling forms of religious expression to prevent possible challenges to its authority. That was particularly true in the communist world where, at worst, expressions of religious belief were ruthlessly stamped out and, at best, tolerated only within State-controlled bodies. As a result, tens of millions of believers were vulnerable to harassment, fines, detention, torture, forced labour and "re-education". Even in the post-communist countries of Central

and Eastern Europe and the Commonwealth of Independent States (CIS), State control of religion, for example through registration, continued, often with the support of the majority religious group.

69. In the Sudan, the attempt in 1983 by the Muslim North to impose Shariah law on the Christian and Animist South had been the catalyst for the ongoing civil war. Saudi Arabia claimed that its population was 100 per cent Muslim and prohibited the practice of other religions. Similar practices existed in neighbouring States. In Pakistan, the blasphemy law protected Islam only and carried the death penalty. It had frequently been used to vent personal animosities. Pakistan also operated a separate electoral system in which individuals voted according to their religion.

70. Religious extremism had recently led to an escalation in religious hatred and violence in India, directed mainly against the Christian minority. The failure to investigate and prosecute the perpetrators and to provide genuine protection against incitement to hatred had enabled the attacks to continue. The trend was spreading to Nepal, where groups with the declared aim of destroying churches and mosques were registered, while peaceful minority religious groups had been denied registration and were subjected to arrest and attack.

71. In Myanmar, the military were seeking to impose control through policies of forced conversion to Buddhism. Christians had been forced to build pagodas and converts to Buddhism received extra rations and were exempted from forced labour.

72. Her organization urged the Sub-Commission to examine the legal provisions governing religion, the effects of State religions or ideologies, the limits on legitimate State interference in private or corporate religious activities, the protection of religious minorities from intolerance and the existence of measures to prevent impunity.

73. Mr. GENIUSAS (International Federation of Free Journalists) said that population transfer had led to many ethnic problems and conflicts involving minorities throughout the world, not least in the Balkans. Accurate and reliable information on minorities was still lacking in many places, in Belarus, for instance, where the regime had closed down the last remaining independent daily and stepped up its violent campaign against opposition activists.

74. Language constituted the essence of social, cultural and political identity and of the national unity of a sovereign State. In the Baltic States, however, the 50-year Soviet occupation had led to the suppression of national languages and the imposition of a foreign tongue. The demographic situation had been altered by mass arrests and deportations and intensive colonization. Latvia had been the country worst affected by the ruthless Russification policy. By 1989, Russian-speaking settlers had outnumbered native Latvians in Riga and the other major cities. The Latvian language had, however, regained its status as the official language of the country. Belarus, on the other hand, had been losing its linguistic and cultural identity since granting Russian the status of an official language after the 1995 referendum. In most of the autonomous republics of the Russian Federation, Russian had ousted the native languages of the indigenous peoples in both administrative affairs and education.

75. According to an Estonian report published in 1999, the damage done to the structure of Estonian citizenship during the 50-year occupation of the country would take time to repair. Estonia's language teaching programme would facilitate the integration of all residents into the country's economic, social and political life. The number of students attending Estonian-language vocational schools and universities had increased considerably in recent years.

76. He urged the Russian Federation to cease its false allegations of discrimination against the Russian-speaking minorities in Estonia and Latvia and to pursue a path of constructive cooperation, following the good example set by Lithuania.

77. Mr. Hatano resumed the Chair.

78. Mr. PUNJABI (Himalayan Research and Cultural Foundation) said that there was a definite need to make a clear distinction between the terms "minority" and "indigenous people".

79. The Working Group on Minorities stated in the report on its fifth session (E/CN.4/Sub.2/1999/21) that the processes of implementation of minority rights should, inter alia, serve the purpose of establishing minorities as an essential component of peaceful, democratic and pluralistic societies and of ensuring harmony and stability within States. The apprehension still existed, however, that overemphasis on minority rights in a pluralistic society could threaten territorial cohesion and lead to instability. That apprehension was an obstacle to the protection of minority rights. The situation was further complicated when rival States promoted jingoism and militancy among minority groups in order to further their strategic objectives. It was important, therefore, to convince States that the processes of protecting and promoting minority rights were not directed towards fomenting instability.

80. The Working Group had recommended the decentralization of powers, based on the principle of subsidiarity, with a view to enhancing the chances of minorities to participate in the exercise of authority over matters affecting them and their societies. It had been wise enough to avoid using the term "autonomy" which, together with "self-determination", had been used by individuals and groups backed by external forces to foment chaos in target States. Although decentralization had resolved many conflicts involving minorities, it was viewed with suspicion by States on the grounds that it could ultimately lead to their dismemberment. He therefore urged the Sub-Commission to make a declaration to the effect that such processes would not be allowed to result in the disintegration of States.

81. The implementation of minority rights was intertwined with the democratic process. Threats to such rights emanated from authoritarian regimes and dictatorships as well as from fundamentalist and extremist elements. The situation of minority rights in individual countries and progress in implementing the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities should be monitored on a regular basis.

The meeting rose at 1 p.m.